State of New Jersey

ΓMENT OF HUMAN SERVICES
SION OF FAMILY DEVELOPMENT
CN 716

DEPARTMENT OF HUMAN SERVICES

Division of Family Development
P.O. Box 716
TRENTON, NEW JERSEY 08625

Chris Christie
Governor

Kim Guadagno
Lt. Governor

Elizabeth Connolly
Acting Commissioner

Natasha Johnson
Director
Tel. (609) 588-2400

The following Decision is distributed for your information. This Decision has been made in consideration of the specific facts of this case. This Decision is not to be interpreted as establishing any new mandatory policy or procedure otherwise officially promulgated.

STATE OF NEW JERSEY
DEPARTMENT OF HUMAN SERVICES

FINAL DECISION

OAL DKT. NO. HPW H.A.

AGENCY DKT. NO. (BERGEN COUNTY OFFICE FOR CHILDREN)

On April 29, 2016, the Bureau of Administrative Review and Appeals ("BARA") received Petitioner's request for an Administrative Review. The Respondent Agency ("Agency") terminated Petitioner's New Jersey Cares for Kids/Child Care Assistance Program ("NJCK/CCAP") child care subsidy because Petitioner was above the program income guidelines. The Agency further determined that an overpayment occurred, and issued a Repayment Agreement. Petitioner only disputes the overpayment and Repayment Agreement.

As the Director of the Division of Family Development, Department of Human Services, I have reviewed this matter and I hereby REVERSE the overpayment and RESCIND the Repayment Agreement.

It is well-established that families shall be eligible for a child care subsidy if they are in need of child care services to remain employed, accept full-time employment, or to attend full-time educational and/or work/training programs. An individual in receipt of child care services must continue to meet the income eligibility criteria and comply at all times with income eligibility requirements while in receipt of services. N.J.A.C. 10:15-2.7(a)(8). In order to become eligible for subsidized child care services, a recipient's income must not exceed 250% of the Federal Poverty Level ("FPL") Guidelines. N.J.A.C. 10:15-5.2(b); N.J.A.C. 10:15-5.3(a); Division of Family Development ("DFDI") No. 09-6-7.

In the child care program, income is defined as the current gross income earned by all members of the family unit. Child Care Operations Manual, Section 1(c), p 10. It includes all earned and unearned income and includes wages from salaries, overtime, tips, bonuses, commissions, winnings, and the like. DFDI No. 09-06-06.

On April 29, 2016, September 1, 2016, and December 20, 2016, BARA sent letters to Petitioner and to the Agency requesting additional information necessary to complete an Administrative Review. Both parties responded accordingly.

A review of the documents establishes that Petitioner had been receiving a child care subsidy when the Agency determined, during a March 2015, redetermination and wage match review, that Petitioner earned income in excess of the program guidelines. On that basis, the Agency terminated Petitioner's child care subsidy in March 2015.

In April 2016, the Agency issued a Repayment Agreement to Petitioner on the basis that Petitioner was ineligible for the child care subsidy beginning October 1, 2014, through 2015. As such, the Agency determined that an overpayment had occurred, and sought recoupment.

With regard to the Repayment Agreement, an overpayment is defined as a payment that exceeds the amount of the child care subsidy for which the parent was eligible. N.J.A.C. 10:15-1.2. Such overpayments occur when funds have been erroneously paid, on behalf of a family, to a child care provider when the family and/or child was ineligible to receive benefits from the NJCK program. These types of overpayments generally occur as a result of a parent/applicant not reporting a change in family circumstance, which would cause a reduction or termination of benefits. Child Care Operations Manual II-A(1)(k).

When an overpayment to a parent receiving child care benefits occurs, the Agency is required to take all reasonable steps necessary to promptly correct the overpayment. N.J.A.C. 10:15-10.4(a)(3).

In this case, the Agency's Repayment Agreement does not list an end date for the overpayment time period. Instead, the Repayment Agreement only states that, "applicant [became] ineligible for the subsidy program as of 10/1/2014 through 2015, based upon a wage match review."

However, what is even more problematic about the Repayment Agreement is that it was issued in April 2016. As such, Petitioner's year-end child support disbursements for 2014 and 2015 should have been requested, in addition to Petitioner's tax transcripts for 2014 and 2015.

Indeed, when BARA requested this information from Petitioner, it was determined that the estimated income the Agency calculated from the wage match does not support the issuance of the Repayment Agreement, and that an overpayment did not occur during the period October 1, 2014, through March 2015. N.J.A.C. 10:15-1.2.

Specifically, Petitioner's tax transcripts for 2014 conclusively establish that she earned $39,063. Petitioner's 2014 child support disbursements also establish that she received $7,986 in child support. Therefore, Petitioner's total income for 2014 was $47,049. Thus, the Repayment Agreement should not have started on October 1, 2014, since Petitioner was not over income for that year. The program guidelines for a family size of three permitted a parent to earn $48,825 in 2014.

Turning to 2015, Petitioner's tax transcripts and child support disbursements confirm that, by the end of 2015, Petitioner was over income. This is so because Petitioner's 2015 earned income totaled $53,192, with her total child support disbursements at $11,267. Therefore, Petitioner's total income for 2015 was $64,459. This income is above the 2015 program guidelines for a family size of three, which was $49,475.

However, as of March 2015, Petitioner was not over income. Instead, at the time that her child care subsidy was terminated, Petitioner's income had not exceeded the program guidelines of $49,475. Thus, the record confirms that there is no factual basis for the issuance of the Repayment Agreement, and that Petitioner did not receive an overpayment from October 1, 2014, through March 2015.

Accordingly, because I find that an overpayment did not occur, I REVERSE the Agency's determination and further RESCIND the Repayment Agreement, since the child care subsidy was not issued during a period of ineligibility. N.J.A.C. 10:15-1.2.

Signed Copy on File
at DFD, BARA

FEB 2 7 2017

Natasha Johnson
Director